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FEDERAL PROPERTY ACT OF 1948

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Mr. AIKEN, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

[To accompany S. 2754]

The Committee on Expenditures in the Executive Departments, having had under consideration the matter of Government property management, report the following bill (S. 2754) to reorganize and simplify the procurement, utilization, and disposal of Government property, and for other purposes, and recommend that it do pass.

I. HISTORICAL BACKGROUND

The need for an efficient, businesslike system of property management has long been recognized. In 1943 the House passed, and this committee reported favorably, a bill (H. R. 2795) designed to fulfill that need. While being considered that bill was overtaken by the more immediate and special problem of disposing of our war surplus without dislocating our national economy. In the end, the Congress deferred action on long-range property management and, instead, adopted the Surplus Property Act of 1944 limited in objective to dealing with war-generated surplus and limited in life to 3 years after the date of cessation of hostilities. That date will occur on December 31, 1949.

By a special message to the Congress dated March 5, 1948, the President recommended renewed consideration of Government property management. The Federal Works Administrator submitted a proposed bill which had been cleared with the other interested agencies through the Bureau of the Budget. Using this bill as a basis, the committee has held several hearings with witnesses mainly from the executive departments and agencies principally affected. The committee has received, also, the advices of the Comptroller General. From the evidence presented, the committee is satisfied as to the soundness of these three propositions: First, the objectives of the Surplus Property Act of 1944 have largely been met and the remain-

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ing inventory does not require all the special treatment provided for in that legislation; second, the time is at hand for the enactment of permanent property-management legislation; and, third, the executive departments and the Comptroller have endorsed the bill being reported out today and agree that it will do the job efficiently and economically. The bill as introduced and reported herewith follows the general pattern of the draft which was submitted to the committee, but contains several changes and additions suggested by witnesses and others which in the opinion of the committee improve the original version.

II. GENERAL STATEMENT

The confused state of present legislation dealing with Government property is perhaps best described by the following statement. This appeared originally in the 1943 report of the House Committee on Expenditures on H. R. 2795 and was quoted with approval the following year in the report of this committee on the same bill.

Efficient executive management of the Government's great and growing investment in equipment, materials, and supplies, and the control of the Congress over the use and disposition of such property are seriously handicapped by the lack of comprehensive legislation. The essential foundation of management standards in determining what and what quantities should be bought, and similar standards to govern utilization are conspicuous by their absence. Although the accrual of surpluses is an inevitable feature of the active operations of Government, the determination and release of such surpluses is entirely within the discretion of thousands of widely scattered executives * * *. Even under normal conditions the results of such a situation are apparent in excessive stocks, unnecessary duplication, lack of maximum utilization, unauthorized augmentation of congressional appropriations by free transfer of cash equivalents from one to another, heavy direct losses to the Treasury, and waste in other forms.

To correct the situation above described, the bill here reported will provide a comprehensive legislative framework integrating and centralizing responsibility for the three basic components of Government property management, which are procurement, utilization, and disposal of surpluses. To this end, the bill brings together in one agency the three major executive units operating in this field. These are the Public Buildings Administration, a constituent unit of the Federal Works Agency, which provides and manages most office and warehouse facilities for the Government and which, historically, was responsible for disposing of surplus real property; the Bureau of Federal Supply in the Treasury Department, which now has over-all responsibility for the procurement of personal property and certain limited responsibility for the cataloging, supply, and utilization of such property; and the War Assets Administration, which is responsible for the temporary job of disposing of surplus property generated by World War II. Executive property management cannot be conducted efficiently unless these responsible units are brought under a common leadership and direction. The bill brings them into the existing permanent Federal Works Agency with authority given to the Administrator to reorganize, regroup, and consolidate functions.

While thus fixing management responsibility, the bill provides operating machinery flexible enough to cope with the needs for specialized service. For instance, the Secretary of Defense is authorized to except the National Military Establishment from uniform procurement whenever he deems such exception required in the interest of

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national security. Similarly exempted from central control are the purchase and disposal of farm products under programs conducted by the Department of Agriculture for purposes of price support or stabilization.

In other respects the bill provides, generally, for uniform policies and methods of procurement. This, it is expected, will stop the great losses which the Government has previously incurred through competition of Government agencies for the same articles in the same markets, unnecessary buying, lack of quantity purchasing and other inefficiencies.

Equally great losses have been suffered by the Government through purchasing of new articles by one agency when serviceable articles of the same type are available in the inventories of other agencies and excess to their needs. The bill is intended to stop these losses also. It provides for a uniform property-identification system and for adequate inventory controls. It requires continuing surveillance by every executive agency of the property under its control and it authorizes the Administrator to make surveys of such property and the management practices in respect thereto. Through these measures, the committee believes that there can, and, if they are efficiently administered, that there will be maximum utilization of property already owned by the Government and minimum purchasing of new property.

As previously stated, the committee considers, from the testimony presented to it, that the objectives of the Surplus Property Act of 1944 have largely been attained. The remaining inventory of war surplus personal property is relatively small and consists principally of aircraft components and similar items which are either in long supply or of relatively little value for civilian use. It would appear, therefore, that the cost of disposing of this property under the present priority system would likely exceed the returns to the Government. The bill therefore abolishes all priorities on personal property. It does, however, retain until December 31, 1949, the public-benefit allowances under the present law with respect to property useful for health or education purposes. The committee feels that the retention of these allowances will fulfill, substantially, the needs of our health and educational institutions without involving the excessive administrative costs incident to a priority system. The committee intends, however, that applicants for such allowances shall be accorded every opportunity to acquire property as against ordinary commercial purchasers and particularly speculators.

Surplus real property generated by World War II presents quite different aspects. The remaining inventory of this property totals nearly \$4,000,000,000 in original cost. Surplus real property cannot be disposed of overnight and a priority system in connection with such disposition is not unduly expensive. Accordingly, the committee has retained existing priorities and preferences with respect to the disposition of surplus real property until December 31, 1949, the expiration date of the Surplus Property Act of 1944.

Under the administration of the Department of State, most of the surplus property generated in foreign areas as a result of World War II has either been sold or has been committed for sale. The remaining small inventory is widely dispersed and of specialized or technical character; in most cases the cost of transportation back to this coun-

try probably would exceed either the use value to the Government or the sales return in the commercial market. Title II of the bill deals with this problem and provides that the agencies responsible for such property shall dispose of it where located abroad, taking into consideration the foreign policy of the United States. As a practical matter, this means that the armed services will dispose of surplus property located in foreign countries pursuant to policies established by the Secretary of State. So that the shift in operating responsibility from the Department of State to the National Military Establishment may proceed in an orderly fashion, these establishments and the Executive Office of the President have entered into a memorandum of understanding for the implementation of title II of the bill in the event of its enactment. This understanding was submitted to the committee and a copy is annexed to this report as appendix A.

The supplemental estimate of appropriation for the War Assets Administration, transmitted by the President on May 12, 1948 (H. Doc. No. 648), contains a statement indicating that savings of approximately \$12,000,000 could be effected in fiscal 1949 from the consolidation of the War Assets Administration into the Federal Works Agency and its operation there under the draft bill. The committee feels very strongly that this is and should be only a beginning to the savings which will accrue to the Federal Treasury under the bill. Many millions more can be and must be shaved from expenditures for property management through merger of common services and the resultant reduction of overhead and elimination of duplicatory activities. Further, as previously noted, the maximum use of Federal property by the Federal Government will, with efficient administration, reduce procurement requirements to a minimum.

III. SECTION-BY-SECTION ANALYSIS

PREAMBLE

The bill commences with a short title styled the "Federal Property Act of 1948," following which is a table of contents.

Section 2. Declaration of policy

This is very brief and states the intent of the Congress to provide for the Government an economic and efficient system for (a) the procurement and supply of personal property and nonpersonal services; (b) the utilization of available property; and (c) the disposal of surplus property.

Section 3. Definitions

Several definitions require special note. "Property" includes all interests in property except the public domain and the major classes of naval vessels. "Excess property" means any property under the control of any Federal agency not required for its needs and responsibilities as determined by the head thereof. "Surplus property" means any property which has been declared excess by a particular Federal agency and which, after a survey of the needs of other Federal agencies, is determined by the Federal Works Administrator no longer to be required by the Federal Government as a whole.

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TITLE I. PROPERTY MANAGEMENT

This deals with the subject of property management within the United States.

Section 101. Transfer to the Federal Works Agency of the Bureau of Federal Supply contract-settlement functions and affairs of the War Assets Administration

(a) *Transfer of the Bureau of Federal Supply.*—This subsection provides for transferring to the Federal Works Agency the functions, records, and personnel of the Bureau of Federal Supply, now in the Department of the Treasury, and for vesting in the Federal Works Administrator the functions of Treasury personnel relating to the Bureau of Federal Supply. The Bureau of Federal Supply has been in the Department of the Treasury since 1933 and exercises central procurement functions for the executive branch of the Government. Its functions are not essentially related to the primary fiscal and tax functions of the Department of the Treasury so that the Bureau may readily be severed from that Department without impairment of the Department's efficiency. The Bureau in the Federal Works Agency will supplement the service functions of that Agency and will facilitate more economical property management in the Government. Functions of the Secretary of the Treasury, referred to in subparagraph (iii), include all functions vested in him by law, but performed by the Bureau for him under appropriate delegation: for example, stock piling under the Strategic and Critical Materials Stock Piling Act (60 Stat. 596) and functions of over-all supervision and review of the performance of Bureau functions, incidental to his position as head of the Department.

(b) *Transfer of contract settlement functions.*—This subsection provides for transfer to the Federal Works Administrator of the functions, transferred to the Secretary of the Treasury, a little over a year ago, of the Director of Contract Settlement and the Office of Contract Settlement created by the Contract Settlement Act of 1944 (58 Stat. 649; 41 U. S. C. 101-125). These functions relate to the establishment of uniform policies and procedures for the settlement of terminated war contracts by Government contracting agencies and, because of the almost complete liquidation of the contract termination program, are now routine and insignificant. Such little work as has been recently required in connection with this program has been carried on in the Treasury primarily by the Bureau of Federal Supply. It would be in the interest of good management to have this Bureau continue to wind up that program. This subsection likewise transfers from the Treasury to the Federal Works Agency the Appeal Board and the Contract Settlement Advisory Board also created by the Contract Settlement Act of 1944. This transfer is for housekeeping purposes only. The Treasury does not, nor will the Federal Works Administrator, review decisions of the Appeal Board which will perform its functions under conditions and limitations prescribed by law.

(c) *Transfer of the affairs of the War Assets Administration.*—This subsection transfers the War Assets Administration to the Federal Works Agency, to be administered as a Bureau of Surplus Property headed by a Commissioner of Surplus Property. The War Assets

Administration and the Office of War Assets Administrator are abolished. For a period of 3 years, or such shorter time as the Federal Works Administrator may determine, the personnel of War Assets Administration will be considered as a separate entity in respect to employment rights as related to the new Bureau, and after such time will become subject to the normal employment rights of the Federal Works Agency. Persons now holding exempted appointments under the Surplus Property Act may continue in such positions.

(d) *Transfer of funds.*—This subsection transfers to the Federal Works Agency for activities under the bill the appropriations, allocations, or other funds available to the Department of the Treasury and to the War Assets Administration for the functions transferred.

(e) *Regrouping of property-management functions.*—Under this subsection the Federal Works Administrator, in order effectively to manage Government property under the terms of this bill, is authorized to reorganize the several constituents of the Federal Works Agency, to regroup and distribute property-management functions within the Agency, and at such time as he may deem appropriate to abolish the Bureau of Surplus Property as a principal component of the Agency.

(f) *Functions retained in the Treasury.*—This subsection permits the Bureau of the Budget to retain in the Treasury Department certain minor functions of the Bureau of Federal Supply, for example, as to printing, which properly pertain to the Treasury Department.

Section 102. Procurement, warehousing, and related activities

(a) *Centralized control.*—This subsection authorizes the Federal Works Administrator, where it is advantageous to the Government, to regulate the policies and methods of executive agencies in procuring personal property and nonpersonal services and in warehousing, stocking, transporting, and distributing property. The Administrator may himself procure such personal property and nonpersonal services and may consolidate and operate or arrange for the operation of suitable warehouses, repair shops, and similar facilities. This authority over procurement matters vested in the Administrator is a restatement of authority currently exercised by the Bureau of Federal Supply, except that the control over the purchases of wholly owned Government corporations is new, and that the relationship with the National Military Establishment is somewhat changed. The committee has deemed it advisable to authorize the Secretary of Defense, unless the President shall otherwise direct, to exclude procurement for the National Military Establishment from control of the Administrator where the Secretary deems exclusion in the best interest of national security. Combat equipment and other items of peculiar importance to the armed forces could thus readily be excluded by the Secretary of Defense. At the same time, the Administrator would be in a better position to serve the armed forces more fully in meeting their other supply requirements, and he can appeal to the President if he thinks the Secretary of Defense has wrongly excluded him from any field.

(b) *Services to the legislative and judicial branches, and mixed-ownership corporations.*—This subsection authorizes the Administrator upon the request of any agency in the legislative or judicial branches of the Government or of any mixed-ownership Government corporation, or the District of Columbia to purchase, warehouse, and distribute

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personal property and nonpersonal services to meet their needs. Government economy will be furthered by allowing these organizations, supported in whole or in part by the Federal Government, to take advantage of savings in procuring supplies which the Administrator can provide through the operation of a central procurement system.

The committee is satisfied that with the exceptions provided in the bill, the system of centralized procurement has proved its efficiency and economy over the years, and, given further statutory support as the bill provides, will do even better in the years to come. This does not mean that every item must be procured by a central agency, only that such an agency must be responsible for determining how every item shall be procured, and for prescribing the manner of procurement which is best in the circumstances.

Section 103. Property utilization

This section deals with the most important phase of property management, which is continuing use by the Government of the Government's property.

(a) *Over-all direction of Federal Works Administrator.*—This subsection fixes upon the Federal Works Administrator the over-all responsibility to prescribe the policies and methods to promote the greatest use in the entire executive establishment of property which is excess to the needs of one particular establishment and also to provide for the transfer of such property among Federal agencies.

(b) *Responsibility of executive agencies to survey property.*—This subsection imposes upon each executive agency the responsibility, in the first instance, (i) to maintain adequate inventory controls and accountability systems for its property, (ii) to survey its property continuously to determine which is excess to its needs, and (iii) to care for such excess property.

(c) *Responsibility of executive agencies to use property.*—This subsection similarly imposes upon each executive agency the responsibility, in the first instance, to reassign property among activities within such agency, to transfer its excess property to other agencies, and to obtain for its use property which is excess to the needs of other agencies.

(d) *Transfer of property within National Military Establishment.*—This subsection permits the free transfer of excess property among the Departments of the National Military Establishment under existing provisions of law and procedures by the Secretary of Defense.

(e) *Terms for transfer of excess property.*—This subsection generally requires that transfers of excess property between Federal agencies shall be at the fair value thereof, as determined by the Federal Works Administrator. Exceptions are made in the case of a transfer for general distribution among Federal agencies or for disposal as surplus property or where such transfer is otherwise authorized by law without reimbursement. "Transfers for distribution among Federal agencies" refers to instances where property is turned over to the Bureau of Federal Supply for redistribution rather than transferred direct for the use of another agency. When the redistribution occurs the transfer should be at fair value.

(f) *Transfer of property within an agency.*—Under this subsection transfers of property among activities financed by different appropriations to the same agency must be reported to the Director of the Bureau of the Budget and, in turn, reported to the Congress.

(g) *Assignment of office and warehouse space.*—This subsection clarifies and strengthens existing law by authorizing the Federal Works Administrator to assign and reassign space in excess real property to any Federal agency for office, storage, or related facilities. He may obtain reimbursement for such assignment in the absence of an appropriation available to him therefor. The committee expects that operations under this subsection can and should materially lessen the present leasing of space for Government use in private office buildings.

(h) *Abandonment or donation of property.*—This subsection authorizes the abandonment, destruction, or donation to public bodies of property having no commercial value, or the estimated cost of care and handling of which would exceed the estimated proceeds from its sale.

Section 104. Disposal of surplus property

(a) *Responsibility of Federal Works Administrator.*—This subsection provides that the Federal Works Administrator shall have the responsibility for the disposition of property surplus to the needs of the entire Government.

(b) *Care and handling of surplus property.*—This subsection provides that the care and handling of surplus property pending its disposition may be performed by the Federal Works Agency or any executive agency appointed by the Administrator.

(c) *Terms of disposal.*—This subsection provides that any agency disposing of surplus property may do so by sale, exchange, lease, or transfer, for cash or credit, with or without warranty, and may execute such documents for the transfer of the property as may be necessary.

(d) *Title of transferees.*—This subsection is designed to protect the interest of bona fide grantees or transferees. It makes instruments purporting to transfer title or other interest in surplus property under this act, which are executed by an executive agency, conclusive evidence of compliance with the provisions of the act.

(e) *Advertising for bids.*—This subsection provides that surplus-property disposals may be made without regard to provisions of existing law for advertising, unless otherwise determined by the Administrator, until December 31, 1949.

(f) *Adjustments for contractor inventories.*—This subsection provides that contractors or subcontractors with executive agencies may be authorized to retain or dispose of their contractor inventories.

(g) *Consultation with Secretary of Agriculture.*—This subsection requires the Administrator to consult with the Secretary of Agriculture in formulating policies for the disposal of surplus agricultural commodities, surplus food processed from agricultural commodities, and surplus cotton and woolen goods, and further requires that such policies shall be formulated to prevent surplus agricultural commodities or surplus food products from being dumped on the market in such manner as to disrupt the market prices for agricultural commodities.

(h) *Disposal of agricultural commodities.*—This subsection requires the Administrator to transfer to the Department of Agriculture without charge, any surplus agricultural commodities, foods, or cotton or woolen goods, whenever the Secretary determines it necessary in

carrying out his responsibilities with respect to price support or stabilization, and further requires that the receipts from disposals by the Department of Agriculture shall be deposited pursuant to authority available to the Secretary of Agriculture and the net proceeds of sales of property so transferred shall be credited pursuant to the provisions relating to proceeds in section 105 (b). It also provides that, except when sold for export, surplus farm commodities so transferred may not be sold in quantities in excess of or at prices less than those relating to such commodities when sold by the Commodity Credit Corporation, or at less than current prevailing market prices, whichever may be the higher. The Commodity Credit Corporation may dispose of such commodities for cash, exchange of goods, or credit, for export. This subsection also provides that no such food products shall be sold for export if there is an actual or anticipated shortage of such food products in the United States, or if they are needed to supply normal consumer demand in the United States.

(i) *Disposal of vessels for merchant use.*—This subsection establishes the United States Maritime Commission as the statutory disposal agency for surplus vessels of 1,500 gross tons or more, which it determines to be merchant vessels or capable of conversion to merchant use. Such vessels are to be disposed of in accordance with the Merchant Marine Act of 1936 and other laws relating to the sale of such vessels.

Section 105. Proceeds from transfer or disposition of property

(a) *Deposit of proceeds into miscellaneous receipts.*—This subsection requires all proceeds from the transfer of excess property to a Federal agency or from the sale, lease, or other disposition of surplus property to be covered into the Treasury as miscellaneous receipts, with the exceptions noted in subsections (b), (c), and (d).

(b) *Crediting of reimbursable funds.*—This subsection provides that in cases where the property was acquired by funds either not appropriated from the general fund of the Treasury, or appropriated therefrom and by law reimbursable from assessments, taxes, or other revenues, the net proceeds of the disposition or transfer of such property shall be credited to the reimbursable fund or appropriation or paid to the Federal agency declaring such property excess. It further provides that the proceeds shall be credited to miscellaneous receipts if the agency declaring the property excess shall deem it uneconomical or impracticable to ascertain the amount of net proceeds.

(c) *Refunds to purchasers.*—This subsection provides that Federal agencies disposing of surplus property may deposit in a special account with the Treasury whatever amounts they deem necessary to permit refunds to purchasers when any disposition is rescinded, or for breaches of warranty, and to withdraw the amounts so to be refunded or paid.

(d) *Proceeds from contractors' sales.*—This subsection recognizes that the contractual provisions authorizing the proceeds of sales of property to be credited to price or cost of the work covered by the contract, are controlling and are not subject to the requirements of the act relating to covering proceeds into the Treasury as miscellaneous receipts.

(e) *Preservation of security.*—This subsection authorizes the Administrator to preserve and manage any mortgage, lien, or other interest retained as security in the disposition of surplus property, and au-

thorizes him to enforce and settle the rights of the Government with respect thereto.

Section 106. Policies, regulations, and delegations

(a) *Presidential policies.*—By reason of the impact of this legislation upon all agencies in the executive establishment, this subsection authorizes the President, if he deems it advisable, to prescribe over-all policies to guide the Federal Works Administrator and executive agencies in operations under this act.

(b) *Regulations of the Administrator.*—This subsection requires the Administrator to prescribe regulations for the effectuation of his functions under the act, and also requires the head of each executive agency to issue such orders and directives as are necessary to carry out such regulations.

(c) *Delegations of authority.*—Under this subsection the Administrator may redelegate his authority excepting, however, the authority to issue policy regulations and the authority to make reorganizations within the Federal Works Agency.

(d) *Designation of other agencies.*—So as to provide the greatest use of existing personnel and facilities within established agencies, this subsection authorizes the Administrator to designate other executive agencies to perform various procurement, utilization, or disposal functions with the proviso that any such designation shall be made only with the consent of the agency concerned.

(e) *Transfer of personnel and funds.*—When any designation is made under subsection (d) the Administrator may, under this subsection, transfer funds and personnel to the affected executive agency.

(f) *Industry advisory committees.*—This subsection authorizes the Administrator to establish industry advisory committees to advise with him in carrying out his functions. Experience has demonstrated the value of such committees to Government officers where Government programs affect closely business and industry. Specific statutory authorization is necessary because of the prohibitions against unauthorized boards and commissions in title 31, United States Code, section 673, Volume 35, Statutes at Large, page 1027. Compare also title 5, United States Code, section 83, Volume 37, Statutes at Large, page 124, and title 31, United States Code, section 551, Volume 49, Statutes at Large, page 19. Because of the better control over the membership and activities of industry committees which is possible when they are established pursuant to statute, it would be advisable to provide specifically for such committees even apart from these laws.

(g) *Consultation with other agencies.*—This subsection makes it mandatory for the Administrator to advise and consult with affected Federal agencies.

Section 107. Surveys and standardization

(a) *Surveys, supply catalog, and contract forms.*—This subsection authorizes the Administrator to survey Government property and management practices, to establish and maintain a uniform Federal supply catalog system and to prescribe standardized purchase and contract forms, procedures, and specifications. Making surveys and requiring reports concerning Government property, with due regard for the requirements of agencies concerned, will obviously promote better supply practices, and indeed is indispensable if the powers under sections 102 and 103 are to be effectively exercised. The

authority to standardize Government purchase and contract forms, procedures, and specifications has been in effect and in use for many years, and is demanded by industry to make its relations with Government easier. It is exasperating, for example, to have a contract for a supply item, with one agency, different in meaning and effect from one for the same kind of item, with another agency. Existing control over the standardization of the Government construction contract forms and leases is continued in effect by provision in section 302 (b).

A uniform Federal supply catalog system, which identifies and classifies personal property under the control of Federal agencies, is essential for a well-managed Federal supply system so that there may be a common supply language among all parties to a transaction. The catalog will ultimately mean large savings to the Government through reducing inventories of parts and supplies. Without such a catalog, identical items are carried in stock under different designations, swelling inventories to needless size. This cannot be avoided until each item is described, classified, and given a number for identification, so that duplications can be spotted at once. The disposal of surplus Government personal property will thus likewise be speeded.

(b) *Catalog and specifications mandatory.*—Because of the savings resulting from common use of the uniform supply catalog system and of standard purchase specification, this subsection requires executive agencies to use them as far as practicable when prescribed by the Administrator. It is contemplated that questions of practicability, where dispute arises, will be settled by the Administrator.

Section 108. Applicability of antitrust laws

This section requires any executive agency in beginning negotiations for the disposal of any plant or other property costing \$1,000,000 or more, to seek advice of the Attorney General, and it shall be the duty of the Attorney General to advise the executive agency whether the proposed disposition of the property would tend to create or maintain a situation inconsistent with the antitrust laws. The executive agency must assist the Attorney General by furnishing him any requisite information it may possess, essential to the Attorney General's determination. This section also provides that nothing in the act shall modify or limit the applicability of the antitrust laws to persons who acquire property under the provisions of the act.

Section 109. Employment of personnel

(a) *Civil-service laws.*—Employment of personnel is required by this subsection to be subject to the civil-service and classification laws.

(b) *Consultants.*—As an exception to the foregoing, this subsection grants to the Administrator limited authority to procure the temporary service of experts and consultants.

(c) *Officers of other agencies.*—The principal purpose of this subsection is to authorize the Administrator to utilize commissioned officers in the armed services with the consent of the head of the agency concerned.

Section 110. Civil remedies and penalties

(a) *Liability of Government employees.*—This subsection exempts officers and employees of the Government disposing of property under this act from liability with respect to such disposition, except for their own fraud, and from liability for the collection of any purchase

price determined to be uncollectible. This provision is necessary because of the wide discretion which must be permitted persons charged with disposition under circumstances calling for swift action, and the tremendous volume of property covered by the act.

(b) *Civil penalties for fraud.*—This subsection deals with the civil liability of persons who engage in false, fraudulent, or fictitious activities or conceal or misrepresent material facts or act with intent to defraud the United States, or who enter into an agreement or conspiracy, or cause other persons to do any of the foregoing. The United States is given the option of selecting among three different measures of damages—

1. Any person engaged in such activities can be sued for the sum of \$2,000, for each such act, plus twice the amount of the damage sustained by the United States, plus the cost of suit.

2. The United States may recover from such person the amount of consideration paid by it to such person, or twice the amount of consideration which such person agreed to give the United States.

3. The United States may keep the property acquired by reason of the above-described fraud, plus the consideration given to it for that property.

Section 111. Reports to Congress

This section requires the Administrator to submit to Congress annually, in January, a report regarding the administration of this title, together with any recommendations for amendments which he may deem appropriate.

TITLE II. FOREIGN EXCESS PROPERTY

Section 201. Disposal of foreign excess property

This section generally provides that, except where commitments exist under previous agreements, all excess property located in foreign areas shall be disposed of by the owning agency. The head of the agency in question is directed to conform to the foreign policy of the United States in making such disposals. The section provides further that the Secretary of State shall continue to administer existing agreements with respect to the disposal of foreign excess property and shall have authority to amend, modify, and renew such agreements in order to carry on the foreign educational exchange program and the purposes of the Foreign Service Buildings Act and to provide local currencies under procedures established by the Secretary of the Treasury for the payment of expenses of the United States in the country in question.

Section 202. Methods and terms of disposal

This section authorizes disposals of foreign excess property under terms similar to those in the Surplus Property Act of 1944, as amended, under which foreign disposals are currently being made. Foreign excess property may be disposed of by sale, exchange, lease, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the head of the executive agency concerned deems proper. Such property may be disposed of for foreign currencies or credits, or substantial benefits or the discharge of claims resulting from the compromise or settlement of such claims by any executive agency in accordance with the law, whenever the

head of the executive agency concerned determines that it is in the interest of the United States to do so. Disposals may be made without advertising when the head of the executive agency finds such a course to be most practicable and to be most advantageous to the Government. Sales of agricultural commodities, food, or cotton or woolen goods must include a condition forbidding importation into the United States unless the Secretary of Agriculture determines that such property is in short supply in this country. The head of the executive agency responsible for disposal may execute the documents necessary to transfer the interest of the United States in the property and may authorize abandonment, destruction, or donation of foreign excess property under his control which has no commercial value or the estimated costs of care and handling of which would exceed the estimated proceeds of sale.

Section 203. Proceeds; foreign currencies

This section provides that the proceeds from sales of foreign excess property shall, if in the form of foreign currencies or credits, be administered in accordance with procedures prescribed by the Secretary of the Treasury and shall, if in United States currency or when reduced to United States currency, be covered into the Treasury as miscellaneous receipts. The provisions of section 105 (b) relating to reimbursable funds or appropriations shall apply to proceeds of foreign excess property under this title. The section further provides that any executive agency disposing of surplus property under this title may establish a special account with the Treasurer of the United States from which appropriate refunds to purchasers may be made.

Section 204. Miscellaneous provisions

(a) *Presidential policies.*—The President is granted general authority to prescribe policies deemed necessary to execute the provisions of this title.

(b) *Delegation of authority.*—Any authority conferred upon any executive agency under this title may be delegated and successive redelegations authorized by the head of such agency to any official in such agency or to the head of another executive agency.

(c) *Employment of personnel.*—The head of each executive agency responsible for the disposal of excess property hereunder may, subject to the civil-service and classification laws, appoint and fix the compensation of necessary personnel and without regard to the civil-service and classification laws appoint and fix the compensation of personnel outside the continental limits of the United States as may be necessary to carry out his functions.

(d) *Reports to Congress.*—Agencies responsible for foreign disposal shall make annual reports to Congress relative to its activities under this title.

(e) *Transfer of personnel, funds, etc.*—Such records, property, personnel, obligations, commitments, and unexpended balances of appropriations, allocations, and other funds as determined by the Director of the Bureau of the Budget to relate to the functions transferred to another executive agency under this title shall be transferred from the Department of State to that agency.

TITLE III. GENERAL PROVISIONS

Section 301. Applicability of existing procedures

This section continues in effect all existing policies and procedures until superseded or amended under authority of the act.

Section 302. Repeal and saving provisions

(a) *Repeal of Surplus Property Act, certain exceptions.*—This subsection repeals all the Surplus Property Act of 1944 except (i) sections 13 (a) and (b) relating to public benefit allowances to health and educational institutions which are continued in effect until December 31, 1949; (ii) section 13 (g) relating to the airport program, and section 32 (b) (2) relating to the foreign scholarship program, both of which are retained as permanent legislation; and (iii) section 28 suspending a statute of limitations. This subsection also continues until December 31, 1949, the existing priorities and preferences with respect to the disposal of surplus real property.

(b) *Repeal of Executive Order 6166.*—This subsection supersedes Executive Order 6166 so far as it relates to the Bureau of Federal Supply.

(c) *Declaration of additional authority.*—By this subsection the authority conferred by the act is declared supplemental and not subject to other legislation.

(d) *Special exemptions from the act.*—This subsection exempts from operations under the act a number of activities requiring special treatment. Chief among these are programs for price support, stabilization, grants to farmers, and foreign aid; the stock piling of critical materials; the national school-lunch program; the Housing and Home Finance Agency with respect to the disposal of residential property; the Atomic Energy Commission; and the statutory programs of the armed services for donation of obsolete personal property in the public interest.

Section 303

(a) *Authorization for appropriations.*—This subsection authorizes appropriations generally without specification as to amount.

(b) *Transfer authority.*—Under this subsection an executive agency may use for care and handling of property funds heretofore appropriated to it for purposes contemplated by sections 102, 103, 104, and 106 of the act.

Section 304. Separability

Each provision of the act is declared separable so far as validity is concerned.

Section 305. Effective date

The effective date of the act is established as July 1, 1948.

APPENDIX A

MEMORANDUM OF UNDERSTANDING WITH REFERENCE TO FOREIGN SURPLUS-PROPERTY DISPOSAL

In order to provide for a uniform understanding with reference to the administration of activities under title II of the Proposed Property Management Act of 1948, now pending before the Congress, the following principles are to be followed:

1. Surplus property, generated after June 30, 1948, not included under sales contract or negotiations in process shall be the responsibility of the owning agencies for disposal.

2. Surplus property generated prior to June 30, 1948, which is not included under sales contract or negotiations in process on June 30, 1948, will be the responsibility of the owning agencies for disposal.

3. The State Department will not, after June 30, 1948, initiate any new negotiations for the sale of surplus property.

4. Negotiations, initiated by the State Department and in process on June 30, 1948, will be concluded either by reduction to contracts or cancellation by December 31, 1948.

5. The State Department (OFLC) will expedite the completion of all contracts under its jurisdiction with a view that the maximum number of such contracts will be advanced to such a stage that they can be turned over to the Treasury Department for billing and collection.

6. The State Department will administer any contracts entered into by the State Department (OFLC) prior to December 31, 1948. However, contracts which have not been turned over to the Treasury Department and which require continuing administration will be subject to review by the interested parties on or before December 31, 1948, to determine whether responsibility for the continued administration of these contracts should be continued with the State Department.

7. It is proposed that an appropriation will be requested for the Executive Office of the President for fiscal year 1949 to provide funds to cover the cost of administration, sales, and care and handling of surplus property in foreign areas.

8. The arrangements set out above are pointed to the earliest practicable liquidation of OFLC.

APRIL 1, 1948.

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